

## **Council questions mayor's Utilities plan - - Times-Picayune, The (New Orleans, LA) - February 14, 2003 - page 01**

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Mayor Ray Nagin's push to formally abolish the city's Utilities Department was delayed Thursday as some City Council members questioned the plan's legality and asked whether a clear strategy was in place to transfer the agency's responsibilities to other parts of city government.

Both City Attorney **Charles Rice** and council Chief of Staff Ron Pursell, also a lawyer, offered opinions that the proposal -- a small part of a major City Hall reorganization announced this week by Nagin -- is legal.

Nevertheless, the council voted unanimously to postpone a decision on the matter until Feb. 20.

Last month, Nagin submitted an ordinance that seeks the council's approval to shut down the Utilities Department, which emerged last summer as a focal point of his City Hall corruption probe. Nagin effectively mothballed the department in July after his administration charged employees with a range of offenses, from public bribery to malfeasance.

But beyond those problems, Chief Administrative Officer Kimberly Williamson Butler told the council, the plan offers tangible benefits, including cost savings, eliminating what she called "misplaced" functions and removing a layer of unnecessary bureaucracy.

The process to dismantle the agency is being used for the first time since voters amended the City Charter in 1995 to make it easier to eliminate, reorganize or consolidate specified city departments, including Utilities.

Before that, such a change required the mayor to persuade the council to place a charter referendum on the ballot and then win approval from voters.

Councilman Marlin Gusman, who dominated the questioning of the mayor's staff at Thursday's hearing, said he was not certain that Nagin's proposal fits the legal criteria of the change approved by voters.

His argument focused on the Finance Department, which would assume most of the defunct department's responsibilities, including executive branch oversight of the city's franchise agreements with Entergy New Orleans and Cox Communications, which the council regulates.

Gusman, a lawyer, cited a section of the revised charter that lists Finance as one of seven agencies that require a referendum "to rename or reassign powers or functions."

Rice countered that the charter provision in question does not prohibit adding duties to a department, as the administration has proposed.

Likening the charter to the city's version of the Constitution, Gusman said that if the council were "to err," it should err on the side of voters who adopted the charter in 1954. Given a choice, he said, citizens should have "more, not less" of a say on an issue of this magnitude.

Regarding Gusman's interpretation of the charter language, Rice said, "I will have to respectfully disagree."

Councilwoman Renee Gill Pratt joined Gusman in expressing concerns about how the administration intends to fulfill the charter's mandate to monitor the city's monopoly electric and cable TV franchises.

Gusman asked Finance Director Reginald Zeno how much experience he had in the area of **utility** regulation.

"This is a new field for me," Zeno replied, adding that he planned to add professional staff with the proper expertise.

Asked by Gusman how long that would take, Zeno couldn't provide specifics.

But Butler told Gusman that excluding the director's position, which has been eliminated, many former Utilities employees are still in place.

"It's not as if there's a void there," she said.

Karen Wimpelberg, president of the watchdog Alliance for Affordable Energy, said that while the council regulates **utility** rates, the administration's role is a "check on the balance" that cannot be underestimated. That balance would be thrown out of kilter, she said, if a mayoral administration were to abrogate its duty.

"These are very, very complex issues," Wimpelberg said. "And they require keen understanding and focused effort."

While council members are expected to approve Nagin's proposal to abolish the Utilities Department next week, they have the option of taking no action. A failure to act within 60 days of the Jan. 17 publication of Nagin's plan, however, would allow it to take effect automatically.

Administration officials say they can continue to operate under the present system for the time being.

But Chief Technology Officer Greg Meffert said the change is more than mere housekeeping. "We're just trying to be consistent, to keep the trains running and have structure around us to reflect legally what's going on," he said.

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